SBCivil Writ Petition No.4797/2006

Smt.Shakuntala
Vs.
Shri Manilal & Ors.

Date of Order :: 11th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahendra Trivedi, for the petitioner.
Mr. Ravindra Singh, for the respondents.

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By this petition for writ a challenge is given to the judgment 18.4.2006 passed by learned Additional District Judge, Banswara in Misc. Civil Appeal No.9/04.

By the judgment impugned learned Additional District Judge, Banswara while rejecting appeal preferred by the petitioner affirmed the order dated 7.11.2002 passed by the authority under Payment of Wages Act, 1948. By order dated 7.11.2002 the authority prescribed under Payment of Wages Act held that after pleading no instructions by counsel for the petitioner a notice was given and the same was served upon the petitioner despite it she did not choose to appear before the court and, therefore, exparte proceedings were rightly initiated.

While giving challenge to the judgment impugned it is contended by counsel for the petitioner that she failed to appear before the prescribed

authority under Payment of Wages Act for the reason that her counsel pleaded no instructions before the court and thereafter she was not aware about further proceedings taken in payment of wages case.

Heard counsel for the parties.

In para 6 of the judgment impugned learned Additional District Judge in quite unambiguous terms noted the fact that after pleading no instructions by counsel for the petitioner a notice was issued by the Payment of Wages Authority to present petitioner and Shri Kailash Chandra and the same was served upon them on 7.3.2002. The acknowledgment receiving the notice bears signature of the petitioner. On basis of factual foundation above, learned Additional District Judge reached at the conclusion that no error was committed by the trial court while initiating exparte proceedings and by rejecting the application for recalling the order of initiating exparte proceedings. The judgment impugned is based on sound appreciation of facts and it does not warrant interference of this Court under Article 227 of the Constitution of India.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

kkm/ps.